

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION**

JOHN RASH

PLAINTIFF

VS.

CIVIL ACTION NO.: 3:20-CV-224-NBB-RP

LAFAYETTE COUNTY, MISSISSIPPI

DEFENDANT

**DEFENDANT’S MOTION TO STRIKE PLAINTIFF’S EXHIBITS 45 THROUGH 48
FROM PLAINTIFF’S RESPONSE TO DEFENDANT’S MOTION FOR SUMMARY
JUDGMENT**

COMES NOW, Lafayette County, Mississippi, the Defendant in the above-styled and numbered cause, by and through its counsel, and files its Motion to Strike Exhibits 45 through 48 from the Plaintiff’s Response in Opposition to Defendant’s Motion for Summary Judgment, and would state as follows:

1.

In his Response to the Defendant’s Motion for Summary Judgment, the Plaintiff includes Exhibits 45 through 48 which were not produced during discovery. These exhibits purport to reflect various historical uses of the Lafayette County Courthouse grounds and were submitted in support of the Plaintiff’s argument that the grounds constitute a “traditional” public forum. This evidence should have been produced during discovery prior to the discovery deadline. The failure to disclose this evidence to the Defendant precludes its use as substantive evidence in support of the plaintiff’s opposition to the Defendant’s Motion for Summary Judgment.

2.

Accordingly, the Defendant respectfully requests that Exhibits 45 through 48 to the Plaintiff's Response in Opposition to the Defendant's Motion for Summary Judgment be stricken from the summary judgment record and that the Plaintiff be precluded from introducing or referring to these exhibits as to any further proceeding in this cause.

THIS, the 12th day of March, 2021.

Respectfully submitted,

CLAYTON O'DONNELL PLLC
1403 VAN BUREN AVENUE, SUITE 103
P.O. Drawer 676
Oxford, MS 38655
Telephone: (662) 234-0900

/s/ David D. O'Donnell
DAVID D. O'DONNELL, MSB #3912
Attorney for Lafayette County, Ms.,
Defendant
dodonnell@claytonodonnell.com

CERTIFICATE OF SERVICE

I, David D. O'Donnell, hereby certify that I electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to all counsel of record.

This the 12th day of March, 2021.

/s/ David D. O'Donnell
DAVID D. O'DONNELL, MSB# 3912
dodonnell@claytonodonnell.com